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Saskatchewan Municipal –
Provincial Roundtable

Impediments to Voluntary Restructuring

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*A Review of the Legislative and
Financial Impediments to Voluntary
Municipal Restructuring in
Saskatchewan*

*A Report Prepared for SUMA, SARM and MACH – The Municipal-Provincial
Roundtable – June 12, 2000.*

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Summary of Options and Items for Further Discussion

Options

The Roundtable – SUMA, SARM and MACH, by consensus have agreed to the following options:

Provide Authority for Municipalities to Negotiate the Terms of Voluntary Restructuring with Other Municipalities.

Municipalities could address asset and liability concerns, the allocation of grants in lieu of taxes, infrastructure renewal, cross subsidization, mill rate differences and contaminated site liabilities by negotiating and agreeing to specific terms as a means of resolving the financial impediments. The terms of the agreement would form the basis of the order establishing the new municipality.

Restructuring agreements could include the allocation of reserve funds, grants in lieu of taxes and other revenues, which could be set aside in the name of the former municipality for future use within that area. Any future surplus funds generated by the municipality could be allocated at the discretion of the council for the amalgamated municipality.

Municipalities should be provided with the following tax tools to provide councils with flexibility in negotiating the terms of the restructuring agreement:

- *mill rate factors;*
- *minimum tax;*
- *base tax;*
- *service areas; and*
- *geographically based variable mill rates, to be used only to accommodate restructuring initiatives.*

Provide Municipal Authority for Variable Mill Rates and the Establishment of Service Areas

Provide legislative authority for municipalities to levy varying amounts of taxes and service fees within established service areas.

Provide Legislative Authority for Municipalities to Levy Special Levies for Specific Purposes

Provide legislative authority for municipal councils to apply a special levy to specific properties directly or indirectly affected by debt, infrastructure renewal or contaminated site remediation costs, for a specified period, such as ten years.

Debt obligations could be treated similarly by applying a special levy on those properties where the debt originated. Presumably, this would apply to properties within a former municipality.

Ensure Provincial Transfer Payments and Grants in Lieu of Taxes Flow Through to the New Municipality

SaskPower, SaskEnergy Utility Payments

SaskPower and SaskEnergy utility surcharge payments should continue to be paid to the amalgamated municipality in the same manner as they were paid to the former municipality. The utility surcharge has historical significance and should be continued, although the corporate status of the municipality, which requested the surcharge, has changed.

Revenue Sharing Grants

The revenue sharing grants due to municipalities prior to amalgamation should be guaranteed to the new municipality initially and phased out over a period of time to be determined (3 years is the present practice). Grants due to the former municipality would continue to be paid from within existing total funding for the program in which the grant originated (i.e. rural or urban revenue sharing program), subject to program changes.

Municipal Infrastructure Grants

Depending on the type of amalgamation that has occurred, the amount allocated to each amalgamated municipality should be based on standard program criteria and separated between projects that provide infrastructure renewal in urban areas and infrastructure renewal in rural areas. A separation of allocations would not be required for urban – urban amalgamations.

Transit for the Disabled

Transit for the Disabled programs for participating towns that voluntarily restructure with another municipality should continue to be paid to the amalgamated municipality. It would be possible to redesign the program so that the service could be delivered within the new municipal unit, not just within an individual community.

Grants in Lieu of Property Taxes

Grants in lieu (GIL) of property tax payments for Saskatchewan Property Management Corporation properties in individual municipalities that voluntarily amalgamate should continue to flow to the amalgamated municipality.

Provide Transitional Support for Voluntary Municipal Amalgamations

Incremental support for municipalities that voluntarily amalgamate should be developed to provide support for each municipality, up to an amount to be determined at a later date, for each municipality that participates in a voluntary restructuring initiative.

The transitional support program should be available for a period of time.

Provide Legislative Authority to Accommodate Rural-Urban Amalgamations or the Designation of Organized Hamlets

The requirement for cities and towns to revert to village status to qualify for dissolution, should be removed from legislation.

The process for dissolution should be streamlined by removing the UMA requirement for a Lieutenant Governor in Council Order and replaced with approval by Minister's Order.

Provide legislative authority for urban municipalities to become an organized hamlet within the rural municipality in which they are located without the need to revert to a village or hamlet.

Provide rural municipalities the authority to establish a separate uniform mill rate for organized hamlets, with the concurrence of organized hamlet boards.

Amend The Rural Municipality Act, 1989 to Include Urban Provisions

Provide rural municipal councils with authority to adopt various provisions of the UMA and apply these provisions only to urban areas within a rural municipality.

Resolve service fee conflicts between the two municipal Acts by permitting service fees for fire fighting, recreation, street lighting and sanitation services to be charged to residents living in former urban municipalities.

Maintain present urban property tax exemptions provided under section 275 of the UMA by including them in RMA.

Ensure the proposed RMA 331(1)(q) exemption amendment applies only to dwellings located outside of organized hamlets or former urban municipalities.

Provide for Divisional or Ward Representation in Amalgamated Municipalities

Provide and maintain authority for municipalities to create divisions or wards to ensure political representation is provided on a divisional basis based on geographical or population criteria as opposed to an "at large" representational system.

Items for Further Discussion

The Roundtable developed a list for further discussion, which includes the following:

Ensure Provincial Utility Payments Flow Through to the New Municipality

SaskPower, SaskEnergy Payments to Municipalities

SaskPower and SaskEnergy payments to municipalities should be reviewed with SUMA and SARM to resolve inconsistencies in payments received by urban and rural municipalities.

The review of SaskEnergy payments could focus on replacing existing agreements with municipalities and regulations with new legislation to:

- *provide for setting uniform urban and rural natural gas franchise fees for municipalities by regulation;*

- *establish a gas franchise fee pool for municipalities to share non-residential/non-farm franchise fee revenues;*
- *specify the authority and methods for collecting and allocating annual gas franchise fee revenues;*
- *specify the authority and methods for collecting and allocating annual gas franchise fee revenues, including a reduced rate for and a ceiling on fees for industrial customers and any transitional measures required;*
- *ensure amalgamated municipalities receive the appropriate franchise fee revenues.*

Provide Legislative Authority to Accommodate Urban-Urban Amalgamations, Expand Organized Hamlet powers and Develop New Legislation

Review legislation with respect to permitting urban – urban amalgamations where the municipalities do not share a common boundary.

Review the existing powers and authorities for organized hamlet boards with a view to expanding, on a limited basis, its powers and authorities.

Expand provincial government powers to include regulation-making authority for any matter within the authority of the organized hamlet board.

Develop legislation within two years to realign and update local government functions and authorities.

Provide for Automatic Reversion or Dissolution of Municipalities

Provide for the automatic reversion or dissolution of a municipality when, for one Federal census period, it falls below the required incorporation population.

Provide Authority for Councils to establish Representative Community Organizations

Provide legislative authority for council to establish local advisory committees or community associations with specific responsibilities and functions.

Ensure ratepayers have a legal and administrative avenue for providing local input with respect to important decisions by:

- *ensuring through legislation, a direct, transparent relationship exists between council and advisory committees or community associations;*
- *providing legislative authority for council, at its discretion, to delegate to advisory committees or community associations operational functions, such as facility management or the provision of basic municipal services within budget and operational limits set by council;*
- *providing other avenues for public participation in council's decisions and knowledge sharing, such as legislative provisions for public community meetings, citizen involvement on committees of council, media releases and expanding the powers of the Provincial Ombudsman to include municipal matters.*

Encourage councils to increase citizen knowledge about freedom of information legislation and adopt a participatory approach to citizen involvement in municipal decisions.

Apportionment of Responsibilities for Debt, Contaminated Sites, Infrastructure and Other Liabilities

How will responsibility be apportioned, including the provincial responsibility, for contaminated sites, debt, infrastructure and other liabilities?

Impediments to Voluntary Restructuring

A Review of the Legislative and Financial Impediments to Voluntary Municipal Restructuring in Saskatchewan

Introduction

On April 19, 2000, the Premier of the Province of Saskatchewan along with the Presidents of the Saskatchewan Association of Rural Municipalities (SARM) and the Saskatchewan Urban Municipalities Association (SUMA) signed a statement on municipal renewal designed to bring together the Municipal – Provincial Roundtable for the development of an action plan to remove legislative, financial and other impediments to voluntary municipal restructuring.

The three parties to this statement agreed to work in a cooperative and consensual atmosphere to resolve the impediments that posed a barrier to voluntary municipal restructuring. Along with a consensual and cooperative approach, the parties agreed to review all the information on municipal government renewal that has been gathered on municipal renewal and devote the time and resources necessary to conclude this process.

*"As we all recognized when we signed the Memorandum of Understanding in 1996, the best result will be achieved by working together in the Saskatchewan tradition of finding cooperative solutions."*¹

Since April 19, 2000 the Municipal – Provincial Roundtable has met on five occasions and has identified a number of impediments that inhibit the process of voluntary municipal restructuring. Many of the impediments identified relate to financial matters, such as provincial municipal transfer payments, liabilities (identified or hidden), taxation rates between municipalities, and differences in service provision costs between municipalities.

¹ April 19, 2000 Statement on Municipal Renewal

The impediments reviewed have been separated into two categories, financial and legislative.

For the purposes of this report, municipal restructuring potentially includes the following variations:

- rural to rural amalgamation,
- urban to urban amalgamation,
- rural to urban amalgamation, (new municipality would operate under the provisions of *The Urban Municipality Act, 1984*),
- urban to rural amalgamation (new municipality would operate under the provisions of *The Rural Municipality Act, 1989*),
- a combination of rural and urban amalgamations to form a regional municipality.

Using the information contained in a number of reports generated since the early 1990's on municipal renewal, this report seeks to determine the nature of the impediments to voluntary municipal restructuring and provide options that seek to meet the interests of the parties participating in the Municipal – Provincial Roundtable meetings on municipal government renewal.

The impediments identified in this report come largely from the work conducted during the review of municipal services and structures undertaken as a result of the Memorandum of Understanding (MOU) agreement signed by SARM, SUMA and the Province in May 1996.

Financial Impediments

Liabilities and Outstanding Debt Obligations

The restructuring of municipal governments will, unless addressed, result in the transfer of municipal liabilities, whether identifiable or hidden, and all outstanding debt to the new municipal structure. Ratepayers from one area would object to being forced to pay for liabilities and outstanding debts they were not responsible for or did not create.

There are four areas of liabilities and outstanding debts that concern municipalities interested in amalgamation.

Infrastructure

Existing municipal infrastructure is nearing the end of its useful life in many municipalities. All municipalities are facing enormous costs in replacing and upgrading their water and sewer systems, surfaced streets, roads and other public works. Municipal restructuring will have the potential to transfer replacement costs to those ratepayers that do not receive direct benefit from the public work that is upgraded or modernized.

Municipalities are concerned that if they were to amalgamate with another municipality they would be forced to pay for infrastructure renewal for which they will receive little or no benefit. The costs associated with infrastructure renewal may necessitate an increase in the generalized municipal mill rate.

Provisions within *The Local Improvements Act, 1993* which all municipalities have authority to use, permit councils to charge benefiting property owners the costs of replacing infrastructure, however, this would be applicable only to those properties that receive direct benefit from the public work. The cost to upgrade and modernize urban water and sewage treatment facilities could be recovered through an increase in utility charges. However, the utility rate increase required to capture infrastructure renewal costs will increase in inverse proportion to the number of people served. The resulting utility rate increase could be prohibitive and require the entire municipality to pay for the services for which only a few directly benefit.

Local improvement projects also require the municipality to charge itself for the cost of the local improvement on lands owned by the municipality. In some instances there will be sufficient reserves to pay for the project, however, some municipalities may require the project be paid for through general taxation and the cost would be borne by all ratepayers within the municipality.

Urban Utility Operations

There are a number of urban municipalities that subsidize the provision of water and sewer services through general taxation. Regardless of any capital improvements, utility services subsidized by general taxation will require an utility rate increase to ensure utility rate revenues at least equal expenditures required to operate and maintain the public utility system and remove the financial burden from the general municipal mill rate.

Contaminated Sites – Environmental Liabilities

Properties contaminated by careless waste disposal practices, accidental spills and leakage of fuel from underground or aboveground tanks may cause an environmental liability for municipalities.

Contaminated sites affect municipalities in a number of ways. For instance, if the cost of remediation exceeds the value of the property, owners may quit paying taxes with the expectation that the municipality will not proceed with tax enforcement proceedings on land that could pose a potential liability for the municipality. In other situations, a property may be abandoned and the persons responsible for the contamination can no longer be found or if found, do not have the financial resources to remediate the contaminated site.

In terms of redevelopment, potential tax revenue is lost if a property is even suspected of being contaminated because investors are wary of assuming liability for a contaminated site. The presence of contamination makes investors question the true value of a site. Municipal infrastructure such as water, sewer and utility lines may be directly impacted by contaminants and may require costly repair or replacement.

The Department of Saskatchewan Environment and Resource management's policy is to not hold a municipality liable if it acquires contaminated property through tax enforcement proceedings or otherwise. The Department's policy is that if the municipality is not the party responsible for the contamination, it is not responsible for remediation. However, the municipality could be held accountable if it was the party responsible for or contributed to further contamination through its operations.

Dealing with orphan sites has become one of the most difficult aspects of contaminated site management. Orphan contaminated sites result when no viable parties can be identified as responsible for a site due to business failures or deaths of the former owners.

Saskatchewan Environment and Resource Management (SERM) is exploring concepts and opportunities to deal with orphan sites, such as sectoral funding or stewardship programs. According to SERM's strategic approach, municipalities would not be held liable for remediation of orphan sites by SERM unless contamination was created through their use of the site.

Present and future liability for orphan sites is a concern for SUMA, SARM and MACH.

Outstanding Debt Obligations

When municipalities consolidate, each will assume the others' liabilities, including debt obligations. In 1998, the total outstanding long-term loans and debenture debt for towns and villages in Saskatchewan was approximately \$23 million. For this same year, rural municipalities had an accumulation of \$3.8 million in long-term loans and debenture debt.

Residents of municipalities interested in amalgamation are concerned that if amalgamation were to occur, they would accept and be required to pay for municipal debt, which they did not authorize through their political representative.

Leveling Up and Cross-Subsidization

The following factors were presented during the recent public presentations to the Task Force on Municipal Legislative Renewal as circumstances that may lead to increased property taxes for all residents within an amalgamated municipality:

- individuals within municipalities are concerned that there will be a leveling up of municipal mill rates. That is, present municipal mill rates may have to be increased for a municipality that, previous to consolidation offered basic municipal services, to pay for service enhancements, potentially higher labour costs as a result of amalgamating unionized and non-unionized municipalities, gravitation towards higher service provisions, debt servicing costs and restructuring costs;
- cross-subsidization of service provision between consolidated municipalities is a contentious issue for many ratepayers. Urban municipal service costs associated with the provision of centralized water and sewer systems, streetlights, sidewalks, recreational and cultural facilities and other collectively provided urban type services may result in the transference of some of these costs to municipalities that provide different or less services to their ratepayers. If service provision is leveled up throughout the newly consolidated municipality, municipal property taxes may increase as well. Additionally the costs of providing fire protection, policing, recreation programming, street maintenance, etc., are normally higher in urban municipalities and may also result in increased property taxes in the newly consolidated municipality, if service levels are maintained at the higher level.

Cross-subsidization also occurs between rural and urban municipalities where rural residents use urban services, such as recreational facilities, for little or no cost. While many rural and urban municipalities have been able to resolve this issue, this remains a concern to some urban

residents who feel they are paying for services which rural residents enjoy but do not pay for.

- amalgamation of full service municipalities with municipalities that offer basic services will result in ratepayers feeling they are subsidizing the cost of providing services to the full service area for little or no increase in services in the area that only provided basic services.

Most small urban municipalities suffer from declining population and assessment bases and are increasingly unable to provide necessary local services at a reasonable tax rate. These factors contribute to the principle reasons small urban municipalities may be interested in amalgamating with larger, viable municipalities.

The unforeseen liabilities, the potential for the cross-subsidization of costs associated with upgrading the provision of necessary municipal services to other residents of a consolidated municipality, and the potential loss of provincial funding, are seen by many as barriers to voluntary municipal amalgamation.

Provincial Transfers

The following discussions and options concerning provincial transfers are based on existing program policies and practices.

Revenue Sharing

In the past, when small villages have dissolved into the surrounding rural municipality, the department has phased-in grant reductions over three years. The urban service delivery costs have been brought into the rural equalization formula and then phased out as the costs associated with providing services in the former urban municipality appeared in the RM's financial statement. Generally, the RM's grants were larger than would have been the case without the dissolved village, but not as large as the total of the previous RM and village grants.

In the case of the only RM amalgamation that has occurred recently, the RM grant formulae continued to be applied, using the combined data from the former RM's. This also did not result in total grants as large as the three RM's previously received.

The current financial transfer programs for municipalities have been developed and implemented over the past 30 years to meet specific needs or program objectives. There is a need for a comprehensive review of the relevance of all the financial assistance programs for the municipal sector and reexamination of the provincial interests being served by these programs. The

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need for this type of comprehensive review will increase if significant restructuring of the municipal sector occurs.

Much of the data used in the rural, and to a lesser extent the urban Revenue Sharing grant calculations is no longer readily available or reliable, resulting in complaints from municipalities if their grants are reduced as a result of using the available data.

The Urban Revenue Sharing grants have now been frozen for several years and the formula for distribution is no longer operative. As well, many in the municipal sector have questioned the original premise and principle of "equalization," preferring instead per capita or infrastructure funding.

Municipal Infrastructure Grants

The Provincial-Municipal Infrastructure Program (PMIP) is an ongoing, conditional component of Revenue Sharing that was introduced in 1999-2000.

Program guidelines and applications are developed in consultation with the Saskatchewan Urban Municipalities Association (SUMA) and the Saskatchewan Association of Rural Municipalities (SARM).

SUMA and SARM representatives participate in the review process and recommend projects for Municipal Affairs, Culture and Housing (MACH) to approve.

The \$10 million allocation to municipalities is based on the relative sizes of populations of those municipalities as follows:

Type of Municipality	% of Population	Infrastructure Funding
Northern	3%	\$ 500,000
Rural	20%	2,000,000
Towns and Villages	25%	2,500,000
Cities	52%	5,000,000

Project types that receive funding include rural roads, water supply, waste disposal, and streets (cities only). Funding for northern municipalities is earmarked for northern sewer and water projects through the Northern Revenue Sharing Trust Account (NRSTA). The NRSTA Management Board is involved in project review and selection.

PMIP funding for 2000-2001 will be \$10 million. High priority water supply, waste disposal and transportation projects are targeted for funding. Municipal facilities were eligible but have a lower priority.

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PMIP funding for 2000-2001 will be \$10 million. High priority water supply, waste disposal and transportation projects are targeted for funding. Municipal facilities were eligible but have a lower priority.

For 2000-2001, 458 applications have been received for \$61.8 million in estimated project costs. Municipalities were advised of project approvals in May 2000.

SaskPower Surcharge Payments

SaskPower collects a municipal surcharge on behalf of cities, towns and villages that request it be done. In the 1930's, municipally owned or privately owned electrical companies were significant sources of revenue for municipal councils. As the Saskatchewan Power Corporation absorbed these small utilities, customer rates were substantially reduced, but the municipalities lost a significant source of revenue. Municipal councils were given the option of requesting a municipal surcharge to recover losses from profit, taxes and franchise fees previously paid by the smaller utilities.

SaskPower pays grants-in-lieu of property taxes to the 12 Saskatchewan cities. The grants-in-lieu of taxes are based on five percent of electric revenue within the municipalities. Saskatoon and Swift Current still own their local distribution.

In towns and villages the maximum surcharge is five percent, in cities the surcharge can be as high as ten percent. In recent years, all communities have requested the maximum percentage. In 1998, SaskPower paid approximately \$29 million in municipal surcharges and \$11 million in grants in lieu of taxes to cities.

Rural municipalities are not authorized to request surcharge levies.

SaskEnergy Payments to Municipalities

SaskEnergy and TransGas pay grants-in-lieu of taxes (GIL), which in effect is a natural gas franchise fee, to 11 cities and 98 towns. Remaining urban and rural municipalities do not receive GIL payments. The cost of this is now incorporated into natural gas rates in municipalities that receive payments, except for direct purchase and industrial customers who may have it added depending on their locations.

The GIL is based on historic agreements with some municipalities and regulations. The fees are calculated as either five percent or three percent of the value of natural gas sales within municipalities. TransGas also collects and makes these payments for some direct sales customers.

Effective September 1, 1998, SaskEnergy changed the way in which the payments are charged to customers, making them surcharges on consumption within these urban municipalities, rather than a share of revenues received from all customers within the area, including rural customers.

Transit for the Disabled

The provincial government has been financially assisting municipalities in the provision of transportation services for the disabled since 1975. Originally intended as a program for cities, the program expanded in 1981 to include towns. The number of participating communities has increased over the years, and today there are 79 communities with TFD services in the province.

Funding is provided for up to 50% of operating deficits and up to 75% of capital purchases (specifically vehicles). Funding for the program has been capped since 1992-93 at \$2.15 million annually. In 1999-00, approximately \$275,000 was allocated to vehicle acquisitions, with the remaining funds available for operations. Allocations for vehicle acquisitions remain at \$275,000 for 2000-01.

Provincial support is provided because special needs transportation provides a critical link to social services and health clients and public housing residents for various purposes, as well as being essential to meet the needs of persons with disabilities.

The key municipal issues and concerns regarding special needs transportation are:

- vehicle replacement - will there be provincial funds available when the vehicles need replacing?
- operating assistance has not kept pace with the demands for services;
- revisions to health care have increased pressure on the TFD services;
- the current program does not accommodate alternative service delivery strategies which could reduce duplication and offer additional service at little or no additional costs; and
- the current program discourages pursuit of creative revenue sources for the service as the municipality realizes only 50% of the additional revenues, based on the formula, which shares the deficit.

The last two concerns are mainly relevant for the larger cities, while the concern regarding funding for replacement vehicles is present in all communities providing TFD services.

MACH engaged a consultant to review the TFD Program with the purpose of clarifying provincial interests with respect to special needs transportation, and the government's role in supporting this service. One of the consultant's main findings was a serious province-wide need to replace aging vehicles. Many of these vehicles were purchased in the mid-1980s.

Grants in Lieu of Property Taxes (GIL)

In the 1998-99 budget, the Saskatchewan government announced a new policy that began payments of grants-in-lieu (GIL) of municipal, school and library

property taxes for properties owned or managed by SPMC, effective January 1, 1998.

The GIL program is being phased in over a four-year period, with the initial payment being 25% of the total GIL based on the property taxes levied on the assessed value of the properties. This increased to 50% in 1999 and payments will be based on 75% of the total GIL for 2000. Full GIL payments will commence in 2001.

The GIL policy relates only to properties owned or managed by SPMC. SIAST, regional colleges, Crown owned hospitals, Health District occupied facilities, and regional care facilities are not included.

Municipalities received approximately \$1.4 million in 1998 in GIL payments, and school boards and libraries received \$1.7 million, for a total GIL of \$3.1 million.

In 1999-2000, a total GIL of about \$6.49 million was paid to municipalities, school divisions and libraries.

In 2000-2001, \$9.375 million has been budgeted for GIL payments to municipalities, school divisions and libraries. This expenditure remains within the budget of MACH.

Transitional Support for Voluntary Amalgamation

The Municipal Restructuring Assistance Program was introduced in 1997 to assist municipalities that were interested in voluntary restructuring (amalgamations or dissolution).

The program provided up to \$7,500 per participating municipality to plan and implement restructuring. Costs were shared 50%-50% by the Province and municipalities, up to that limit. Up to \$3,000 per participating municipality was available to develop a restructuring plan and communicate it to the public. Up to \$4,500 per participating municipality was available to assist in transition costs to implement the restructuring plan.

The program was structured to encourage larger groups of municipalities (more than two or three) to look at restructuring. If more municipalities participated in a particular restructuring initiative, more provincial funding would be available.

Funding through the program was approved for four restructuring initiatives in 1997-98. All four were dissolution of small villages into the surrounding rural municipalities.

One application was approved in 1998-99, which involved the restructuring of three rural municipalities. Joint administration of more than one municipality was not eligible under the program.

SARM and SUMA both publicly stated that they do not oppose municipal restructuring, but that it must be voluntary and driven from the local level in order to work. A number of municipalities had expressed interest in restructuring, but have done little to implement it, given the impediments outlined in this paper. Due to the lack of uptake from municipalities, this program was discontinued in 1999-2000.

Options to Resolve Financial Impediments

Provide Authority for Municipalities to Negotiate the Terms of Voluntary Restructuring with Other Municipalities

Municipalities could address asset and liability concerns, the allocation of grants in lieu of taxes, infrastructure renewal, cross subsidization, mill rate differences and contaminated site liabilities by negotiating and agreeing to specific terms as a means of resolving the financial impediments. The terms of the agreement would form the basis of the order establishing the new municipality.

Restructuring agreements should include the allocation of reserve funds, grants in lieu of taxes and other revenues, which could be set aside in the name of the former municipality for future use within that area. Any future surplus funds generated by the municipality could be allocated at the discretion of the council for the amalgamated municipality.

Municipalities should be provided with the following tax tools to provide councils with flexibility in negotiating the terms of the restructuring agreement:

- *mill rate factors;*
- *minimum tax;*
- *base tax;*
- *service areas; and*
- *geographically based variable mill rates, to be used only to accommodate restructuring initiatives.²*

² Geographically based variable mill rates relate to providing councils with the authority to set uniform municipal mill rates for specific service areas within an amalgamated municipality.

Provide Municipal Authority for Variable Mill Rates and the Establishment of Service Areas

Provide legislative authority for municipalities to levy varying amounts of taxes and service fees within established service areas.

Voluntary municipal amalgamation has the perception of creating inequities between consolidated municipalities. Urban – rural consolidations are especially problematic because service levels in urbans are typically more intensive than rural areas.

Service areas could be tied to a customized package of services and reflect the specific needs of residents within that area. Service areas would permit municipalities to provide various service packages to different areas of the municipality and tie municipal property taxes or service charges to the cost of providing those services.

This approach reduces cross-subsidization between various municipal entities and reinforces the principle of user-pay. However, it does have the potential to eliminate the purpose of local governments to provide collective “public” services to individuals who cannot provide these services for themselves, such as roads, water and sewer infrastructure, public safety, etc.

As well, the ability of former smaller municipalities to sustain a user-pay system may be limited because of reductions in that community’s property assessment and overall population. Residents in the former municipalities may not be able to afford the increased property tax necessary for local infrastructure renewal or service enhancement without the need for cross-subsidization. Lower standards of services may be the result.

Provide Legislative Authority for Municipalities to Levy Special Levies for Specific Purposes

Provide the legislative authority for municipal councils to apply a special levy to specific properties directly or indirectly affected by debt, infrastructure renewal or contaminated site remediation costs, for a specified period, such as ten years.

Debt obligations should be treated similarly by applying a special levy on those properties where the debt originated. Presumably, this would apply to properties within a former municipality.

Where there are costs associated with the remediation of contaminated sites, the residents of the former municipality in which the contaminated site is located or where the former municipality was responsible for its operation and maintenance, may, at the discretion of council, be required to pay for the remediation costs through a special levy for a period not exceeding 10 years.

This approach ensures that those who benefit directly from capital improvement or replacement pay for the service. Cross-subsidization is reduced and the user-pay concept is reinforced.

The drawback is that small municipalities may be saddled with high utility rates or high special levies because of capital improvements, the remediation of contaminated sites, or the settlement of debt obligations.

Apportionment of Responsibilities for Debt, Contaminated Sites, Infrastructure and Other Liabilities

How will responsibility be apportioned, including the provincial responsibility, for contaminated sites, debt, infrastructure and other liabilities?

Ensure Provincial Transfer Payments and Grants in Lieu of Taxes Flow Through to the New Municipality

Revenue Sharing Grants

The revenue sharing grants due to municipalities prior to amalgamation should be guaranteed to the new municipality initially and phased out over a period of time to be determined (3 years is the present practice). Grants due to the former municipality would continue to be paid from within existing total funding for the program in which the grant originated (i.e. rural or urban revenue sharing program), subject to program changes.

The three-year period could be used to redesign the revenue sharing program within the existing funding envelope, in consultation with SUMA and SARM.

Maintaining the funding envelope for a period of time after amalgamation will provide stability to the transition process. A new financial transfer program will need to be designed over the next two or three years to address the provincial interest in supporting municipalities to deliver services and continue infrastructure development and renewal.

Municipal Infrastructure Grants

Depending on the type of amalgamation that has occurred, the amount allocated to each amalgamated municipality should be based on standard program criteria and separated between projects that provide infrastructure renewal in urban areas and infrastructure renewal in rural areas. A separation of allocations would not be required for urban – urban amalgamations.

This option permits municipal councils local discretion to determine infrastructure priorities and approval of construction projects.

This option does not alter the present criteria for the program; hence, it has little or no impact on administration or legislation.

Tying funds to rural and urban areas of a municipality ensures a balanced approach to the replacement and renewal of municipal infrastructure.

SaskPower, SaskEnergy Payments to Municipalities

SaskPower and SaskEnergy utility surcharge payments should continue to be paid to the amalgamated municipality in the same manner as they were paid to the former municipality. The utility surcharge has historical significance and should be continued, although the corporate status of the municipality that requested the surcharge has changed.

SaskPower and SaskEnergy payments to municipalities should be reviewed with SUMA and SARM to resolve inconsistencies in payments received by urban and rural municipalities.

The review of SaskEnergy payments could focus on replacing existing agreements with municipalities and regulations with new legislation to:

- ***provide for setting uniform urban and rural natural gas franchise fees for municipalities by regulation;***
- ***establish a gas franchise fee pool for municipalities to share non-residential/non-farm franchise fee revenues;***
- ***specify the authority and methods for collecting and allocating annual gas franchise fee revenues;***
- ***specify the authority and methods for collecting and allocating annual gas franchise fee revenues, including a reduced rate for and a ceiling on fees for industrial customers and any transitional measures required;***
- ***ensure amalgamated municipalities receive the appropriate franchise fee revenues.***

Maintaining the present SaskPower utility surcharge to amalgamated municipalities will provide additional revenues to amalgamated municipalities and comply with historical agreements between SaskPower and urban municipalities. However, in the case of urban – rural amalgamations, there

will be an inconsistency of treatment between one part of a municipality and another.

The proposed gas franchise fee pool involves setting uniform gas franchise fees for gas consumers in rural and urban municipalities, respectively. The fees would be set by regulation. Fee revenues would go into separate urban and rural pools; to be distributed among municipalities with gas service based on each municipality's share of the total residential and farm gas consumption revenues. This approach would pool and share general service, commercial and industrial fee revenues so that individual municipalities do not receive windfalls due to the location of specific major gas consumers.

The structuring of separate urban and rural pools removes the perceived problem of cross-subsidy between urban and rural gas users and municipalities. No rural municipalities receive franchise fees now, but until recently gas consumers in rural municipalities (except for industrial users) did pay toward the GIL now received by some urban municipalities.

Separate gas franchise fee pools would be maintained for amalgamated municipalities based on rural and urban areas of the municipality. Fees payable for urban and rural users would be paid to the amalgamated municipality.

The proposal to restructure SaskEnergy grants in lieu of property tax payments would reduce existing inconsistencies in the treatment of business and industries. The reaction to introducing a franchise fee for all gas consumers would depend on the level of fee that is set.

Transit for the Disabled

Transit for the Disabled programs for participating towns that voluntarily restructure with another municipality should continue to be paid to the amalgamated municipality. It would be possible to redesign the program so that the service could be delivered within the new municipal unit, not just within an individual community.

Expanding service delivery to all areas of an amalgamated municipality provides equal access to all whom may need this service. Expansion of service delivery may increase the cost of providing the program and produce further pressure on the province to provide funding for capital replacement or operating expenditures.

Grants in Lieu of Property Taxes

Grants in lieu (GIL) of property tax payments for Saskatchewan Property Management Corporation properties in individual municipalities that voluntarily amalgamate should continue to flow to the amalgamated municipality.

This approach will maintain the current GIL payments structure to municipalities, for SPMC properties.

Provide Transitional Support for Voluntary Municipal Amalgamations

Incremental support for municipalities that voluntarily amalgamate should be developed to provide support for each municipality, up to an amount to be determined at a later date, for each municipality that participates in a voluntary restructuring initiative.

The transitional support program should be available for a period of time.

Legislative Impediments

Legislative Matters Inhibiting Voluntary Restructuring

Provisions within *The Urban Municipality Act, 1984* (UMA) restrict the ability of towns and villages to revert to an organized hamlet, a hamlet or to amalgamate with another urban municipality or a rural municipality to form one municipal government.

Provisions within the UMA and *The Rural Municipality Act, 1989* (RMA), and differences between the two Acts, restrict the ability of municipalities to amalgamate and form a single municipality.

The UMA provides a "staged" process to reverting and dissolving cities, towns and villages. These provisions inhibit the ability of separate urban municipalities forming one larger municipality.

Under the present legislation only a village or resort village may be dissolved to become an organized hamlet or hamlet within a rural municipality or part of a larger urban municipality. A town that desires to become an organized hamlet or hamlet is required to submit a request to the Lieutenant Governor to issue an order reverting its status to a village, assuming the town's population is below 500. Once reverted to the status of a village and elections are held to elect a council for the village, the council would be required to request, by resolution, that the Lieutenant Governor issue an order dissolving the village.

Various components of the dissolution and reversion process can be cumbersome and time consuming. A typical dissolution or reversion will take approximately 2 to 3 months to complete, assuming there are no objections to the proposal. For dissolution, the process is slowed even further because of the transfer of village assets and liabilities and the winding up of its affairs.

An urban municipality that amalgamates with a rural municipality becomes part of the rural municipality and is subject to the functions and authorities provided under the RMA. Alternatively, if an urban municipality were to annex a rural municipality and create a larger urban municipality, the rural area would be subject to the powers and authorities under the UMA.

Presently, municipal legislation does not provide any mechanism for urban and rural municipalities to amalgamate and become a single municipality. There remain significant differences between the two Acts, so that provisions of one Act, depending on the nature of the amalgamation, may not be suited to a municipality with both urban and rural components.

As well, present legislation does not explicitly provide for urban-urban municipal amalgamations when the boundaries are not contiguous. MACH has received several inquiries over the past five years with respect to urban-urban amalgamation; however, no formal applications have been submitted.

Regulation of Certain Urban Activities

Many differences in the operational provisions between urban and rural municipalities in the UMA and the RMA make it difficult for the amalgamation of towns and villages with rural municipalities.

Operational provisions within the UMA would be lost when an urban municipality amalgamates with a rural municipality.

The following UMA provisions are examples of the specific needs of urban areas relative to rural areas:

- electors of former towns and villages would lose the right to petition council to vote on a bylaw or question, which results of the public vote would be binding on the municipality,
- regulation of:
 - store hours,
 - vehicle and traffic control,
 - curfews for minors,
 - issues related to public safety i.e. swimming pools,
 - public health issues, i.e. litter and regulation of public markets, public parks, water quality and other environmentally sensitive matters,
 - building maintenance standards,
 - licensing of businesses within urban areas, specifically provisions related to *The Direct Sellers Act*,

Other concerns relate to differing provisions between the two Acts such as:

- the ability of rural municipalities to directly charge residents for fire-fighting, street-lighting, garbage collection services and the provision of recreational and cultural services and facilities, all of which are paid through general taxation in urban municipalities,
- the rural dwelling exemption (RMA 331(1)(q)) would provide urban residents who own farm land with a property tax exemption on their urban dwelling, unless the former urban municipality becomes an organized hamlet,
- various tax exemptions provided within the UMA that will not be carried over to the RMA unless the RMA is amended or the RM council grants them locally. (i.e. YMCA, YWCA, Public Library Buildings, Canadian Mental Health Association, CNIB, public squares, parks and war memorials).

Citizen Access, Political Accountability and Local Control

The responsiveness and accountability of council members is considered by some to decrease as the size of municipal governments increase. It is argued that citizens will become more dissatisfied with services when the size of municipal governments increase. As well, it is argued that local government consolidation will not produce an effective municipal system capable of responding to the differing service preferences of the citizens.

It is also assumed that as the size of local government's increase, citizens become less knowledgeable about their local government and the larger size produces a bureaucratic and unresponsive government.

During public consultations in response to the Interim Report of the Task Force on Municipal Legislative Renewal (Task Force), municipalities expressed their fear that if amalgamation of municipalities were to occur, electors would no longer be able to personally know their local representative. They also feared that larger local governments would mean that local areas would lose their right to control local matters because this power would be relinquished to the larger municipal unit.

The R.M. of South Qu'Appelle No. 157 summed up the fears of municipalities with respect to this issue in its presentation to the Task Force.

"The probable loss of local autonomy and accountability is a serious threat to the quality of life of an already beleaguered rural population. In our current system, ratepayers of rural municipalities know their councillors, know where we live, and our phone numbers, and can contact us easily. Councillors are basically volunteers, who receive no salary, but a small indemnity for attending council meetings. We are not in it for the money, but rather, because we wish to make a meaningful contribution to our communities. Councillors in the proposed mega-municipalities would have scant knowledge of the large geographical areas of responsibility, and certainly would not know their ratepayers on a personal level. Rural residents are already seriously alienated from governments. It would be a grave political error to remove their last vestige of local democracy."

During recent presentations to the Task Force on Municipal Legislative Renewal, many argued that their local government would become increasingly remote with a larger municipal structure. As well, it was argued that larger local government would undermine one of its fundamental features and advantages: that decisions be made at the local level where the effects of the decisions are primarily felt.

Various empirical studies have been conducted to measure the effectiveness of citizen access to political representatives and their municipal government in larger municipal structures and results have been varied. Some support the notion that larger governments create less political accountability and less political representation. Other studies indicate that citizens living within small municipalities were less likely to be better represented or able to ensure their municipal government was fair and accountable than those living within consolidated municipalities.

Options to Resolve Legislative Impediments

Provide Legislative Authority to Accommodate Rural-Urban Amalgamations or the Designation of Organized Hamlets

The requirement for cities and towns to revert to village status to qualify for dissolution should be removed from legislation.

The process for dissolution should be streamlined by removing the UMA requirement for a Lieutenant Governor in Council Order and replaced with approval by Minister's Order.

Provide legislative authority for urban municipalities to become an organized hamlet within the rural municipality in which they are located without the need to revert to a village or hamlet.

Provide rural municipalities the authority to establish a separate uniform mill rate for organized hamlets, with the concurrence of organized hamlet boards.³

Provide Legislative Authority to Accommodate Urban-Urban Amalgamations, Expand Organized Hamlet powers and Develop New Legislation

Review legislation with respect to permitting urban – urban amalgamations where the municipalities do not share a common boundary.

Review the existing powers and authorities for organized hamlet boards with a view to expanding, on a limited basis, its powers and authorities.

Expand provincial government powers to include regulation-making authority for any matter within the authority of the organized hamlet board.

Develop legislation within two years to realign and update local government functions and authorities.

Provide for Automatic Reversion or Dissolution of Municipalities

Provide for the automatic reversion or dissolution of a municipality when, for one federal census period, it falls below the required incorporation population.

Removing the requirement to become a village in order to qualify for dissolution streamlines the reversion and dissolution process under the UMA.

Ordinarily, the dissolution-amalgamation option has been a “last resort” for small urbans. Automatic provisions based on census population figures and periods will ensure municipalities that have declining administrative and financial capacities are amalgamated with a larger municipal unit before municipal service levels diminish entirely.

Permitting rural and urban municipalities to amalgamate and form a single municipality with specific powers for urban and rural type functions will alleviate concerns ratepayers and councils members have expressed about becoming an all urban or all rural municipality. It will also alleviate concerns

³ A separate mill rate in this instance, refers to extending the authority of council to establish an independent uniform municipal mill rate for organized hamlets. This option is in addition to the current authority to establish separate mill rate factors for organized hamlets.

ratepayers and councillors have about losing legislative authority to deal with matters that are strictly urban or rural in nature.

Maintaining the organized hamlet provisions within legislation and permitting urban municipalities to directly revert to an organized hamlet will preserve localized decision-making. A comment that was mentioned several times during the Task Force hearings on its Interim Report was that amalgamation would result in a total loss of local control over local services. This option will preserve some localized decision making authority and accountability and provide a mechanism for local people to be actively involved in making decisions with real consequences.

Establishing variable mill rates for organized hamlets provides flexibility in targeting service delivery and allocating costs to those services. This option will help to overcome the objection that rural municipal ratepayers will be forced to pay for liabilities they did not create (i.e. leaky lagoons and aging water and sewer systems).

Some urban municipalities have expressed a desire to amalgamate with other urban municipalities rather than with rural municipalities. Given this authority, urban municipalities would be able to join with other urban municipalities and preserve their urban character.

Developing legislation that blends urban and rural authorities will ensure urban and rural service and regulation needs are met. It also provides an opportunity to enhance municipal functions and authorities and reduce provincial approval requirements for certain municipal activities.

New legislation will take time to develop, possibly two years or more, especially if full consultation with all municipal stakeholders is desired.

Amend *The Rural Municipality Act, 1989* to Include Urban Provisions

Provide rural municipal councils with authority to adopt various provisions of the UMA and apply these provisions only to urban areas within a rural municipality.

Resolve service fee conflicts between the two municipal Acts by permitting service fees for fire fighting, recreation, street lighting and sanitation services to be charged to residents living in former urban municipalities.

Maintain present urban property tax exemptions provided under section 275 of the UMA by including them in RMA.

Ensure the proposed RMA 331(1)(q) exemption amendment applies only to agricultural land and applies only to dwellings located outside of organized hamlets or former urban municipalities.

Providing rural municipal councils with the authority to adopt various UMA provisions maintains the status quo for the provision of urban services to areas of a rural municipality that were formerly urban municipalities.

As rural and urban municipalities voluntarily restructure, there will be a greater need to develop uniform legislation that provides a blend of urban and rural functions and authorities.

Permitting service fees to be charged in urban municipalities for services previously paid through general taxation will provide for a uniform policy throughout the amalgamated municipality. Amalgamating urban and rural municipalities without specific provision for urban service provision would have significant implications for the day to day operations of the former towns and villages.

Restricting the RMA 331(1)(q) exemption to the (A) agricultural and (N) non-arable (rangeland) classes and maintaining the exemption for all eligible dwellings outside of organized hamlets and former urban municipalities ensures the intent of the dwelling exemption is maintained after the amalgamation of urban and rural municipalities.

Provide for Divisional or Ward Representation in Amalgamated Municipalities

Provide and maintain authority for municipalities to create divisions or wards to ensure political representation is provided on a divisional basis based on geographical or population limits as opposed to an "at large" representational system.

Provide Authority for Councils to establish Representative Community Organizations

Provide legislative authority for local advisory committees or community associations with specific responsibilities and functions that ensure ratepayers have a legal and administrative avenue for providing local input with respect to important decisions by:

- ***ensuring through legislation, a direct, transparent relationship exists between council and advisory committees or community associations;***

- *providing legislative authority for council, at its discretion, to delegate to advisory committees or community associations operational functions, such as facility management or the provision of basic municipal services within budget and operational limits set by council;*
- *providing other avenues for public participation in council's decisions and knowledge sharing, such as legislative provisions for public community meetings, citizen involvement on committees of council, media releases and expanding the powers of the Provincial Ombudsman to include municipal matters.*

Encourage councils to increase citizen knowledge about freedom of information legislation and adopt a participatory approach to citizen involvement in municipal decisions.

Political representation on a divisional basis based on either geographical or population limits will ensure ratepayers have direct access to a local elected representative. As opposed to an at-large system of representation, council members elected to represent a division within a municipality will be held to a higher standard of public accountability and public responsiveness.

Discretionary authority of council to delegate certain municipal functions to community associations or local advisory committees will provide a transparent relationship between the council and communities within the municipality. Maintaining the authority for local groups to decide the level of municipal services provided within their own area, even within budgetary limits set by council, would alleviate some of the concern for loss of local autonomy and being "swallowed up by big government," where the needs of the larger communities outweigh the needs of the smaller communities.

Conclusion

The Municipal – Provincial Roundtable has identified a number of financial and legislative impediments that inhibit the process of voluntary municipal restructuring. The financial impediments include provincial-municipal transfer payments, liabilities (identified or hidden), taxation rates between municipalities, and differences in service provision costs between municipalities.

The legislative impediments include legislative matters, regulation of urban activities when urban and rural municipalities amalgamate, and citizen access and political accountability concerns.

This review provides options, which enable municipalities to overcome the existing obstacles to voluntary restructuring.

Each of the options presented provides a means by which municipalities can be provided with the tools to overcome the obstacles to voluntary restructuring.

Through these actions, it is hoped that municipalities will take advantage of the benefits that may be realized through cooperative problem solving.

Many of the financial and legislative impediments outlined in this report require little effort to resolve. Although legislation may be amended to pave the way for voluntary municipal restructuring, there remains one other requirement. Municipalities and their residents must continue toward forging new formal partnerships with their neighbors to renew and revitalize municipal government in Saskatchewan.